

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

FILED

KEITH CHARLES KNAPP, as Trustee of
the California Home Loans Profit Sharing
Plan; TRUST FOR THE
CALIFORNIA HOME LOANS
PROFIT SHARING PLAN, as a fiduciary
of the California Home Loans Profit Sharing
Plan; THERESE A. LAVOIE, as a
participant in the California Home Loans
Profit Sharing Plan,

Plaintiffs,

v.

NOREEN CARDINALE, an individual,
Defendant.

CASE NO. C 12-05076-RMW-HRL

**STIPULATION AND []
ORDER TO CONTINUE PRETRIAL
CONFERENCE AND TO CONTINUE
TRIAL**

Hon. Ronald M. Whyte

Pre-Trial Conf.: October 9, 2014

Trial Date: October 20, 2014

NOREEN CARDINALE,

Plaintiff,

v.

DANIEL R. MILLER JR.; PATRICE
MILLER, his spouse; DANIEL R. MILLER
SR.; PASHLIN INC., a California
corporation; DERALD R. KENOYER;
KEITH CHARLES KNAPP; HOME LOAN
SERVICES CORPORATION dba
CALIFORNIA
HOME LOANS, a California Corporation;
and DOES 1 through 100, inclusive

Defendants.

RELATED CASE NO. C 12-05078-RMW

(Remanded Pursuant to Order Dated
February 15, 2013)

Pursuant to Civil L.R. 6-2 and 7-12, Plaintiffs Keith Charles Knapp, as Trustee of the California Home Loans Profit Sharing Plan, the Trust for the California Home Loans Profit Sharing Plan, as a fiduciary of the California Home Loans Profit Sharing Plan, Therese A. Lavoie, as a participant in the California Home Loans Profit Sharing Plan, Defendant Noreen Cardinale, and (by special appearance) Doris Kaelin, the Chapter 7 Trustee, hereby stipulate and request the following: i) that the pretrial conference, currently set for October 9, 2014, be continued until November 6, 2014; and ii) that trial, currently set for October 20, 2014, be continued until December 8, 2014.

This action was brought pursuant to the Employee Retirement Income Security Act of 1974, as amended. (*See* Declaration of Joseph A. Garofolo (“Garofolo Decl.”) ¶ 3 filed concurrently herewith). One of the Plaintiffs in the instant action, Keith Charles Knapp, has declared bankruptcy in his personal capacity. (*See* Plaintiffs’ Request for Judicial Notice (Doc. 124)). Consistent with the Stipulation and Order to Continue Pretrial Conference and Continue Trial dated August 1, 2014 (Doc. 122), and the parties’ representations at the hearing held on August 1, 2014, Plaintiffs filed their Motion to Refer This Action to Bankruptcy Court (“Motion to Refer”) (Doc. 123) on August 29, 2014. The hearing on Plaintiffs’ Motion to Refer is set for October 3, 2014. (*See* Garofolo Decl. ¶ 4). Because pretrial disclosures currently would be due on September 25, 2014 (10 court days before the pretrial conference), which is prior to the hearing on Plaintiffs’ Motion to Refer, the parties request a continuance of the pretrial conference and trial so that the Court may rule on the Motion to Refer prior to the deadline for pretrial disclosures. (*See id.*). With a continuance of the pretrial conference until November 6, 2014, pretrial disclosures would be due on October 23, 2014, which should provide the parties with sufficient time to prepare their pretrial disclosures should this Court deny the Motion to Refer. (*See id.* at ¶ 5). The relief is also appropriate in that Ms. Kaelin (who believed that the necessity to intervene was mooted by the Motion to Refer) may know to which court she should address a future intervention request. (*See id.*).

Trial previously has been continued five times and the pretrial conference has been continued six times. (*See* Stipulation and Order dated February 13, 2014 (Doc. 91); Order dated

March 12, 2014 (Doc. 97); Order dated June 5, 2014 (Doc. 107); Order dated June 17, 2014 (Doc. 113); Stipulation and Order dated August 1, 2014; Clerk's Notice of Continuance of Pretrial Conference entered on September 2, 2014 (Doc. 125)). This stipulation will have the effect on the case of continuing the pretrial conference for approximately one month and trial for approximately six weeks. (*See* Garofolo Decl. ¶ 8).

IT IS SO STIPULATED AND AGREED.

September 16, 2014

/s/ Michael L. Boli
Michael L. Boli
Attorney for Defendant/Judgment Creditor Noreen
Cardinale

September 16, 2014

/s/ Joseph A. Garofolo
Joseph A. Garofolo
Attorney for Plaintiffs Keith Charles Knapp, as Trustee of
the California Home Loans Profit Sharing Plan, the Trust
for the California Home Loans Profit Sharing Plan, as a
fiduciary of the California Home Loans Profit Sharing
Plan, and Therese A. Lavoie, as a participant in the
California Home Loans Profit Sharing Plan

September 16, 2014

/s/ Laura A. Palazzolo
Laura A. Palazzolo
Attorney *Specially Appearing* for Doris Kaelin, Chapter 7
Trustee

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ORDER

Pursuant to the Stipulation, and good cause appearing, the Court orders the following:
i) the pretrial conference, currently set for October 9, 2014, at 2:00 P.M., is vacated and reset to
November 6, 2014, at 2:00 P.M.; and ii) trial, currently set for October 20, 2014, at 1:50 P.M. is
vacated and reset to December 8, 2014, at 1:50 P.M.

IT IS SO ORDERED.

Dated: September 30, 2014



RONALD M. WHYTE
UNITED STATES DISTRICT JUDGE